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**SPECIFIC GROUPS AND INDIVIDUALS**

**MIGRANT WORKERS**

**Report of the Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, submitted pursuant to Commission on Human Rights resolution 2002/62**

**Addendum**

**Mission to the Philippines***

* The executive summary is being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being circulated in the language of submission only.

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**Executive summary**

At the invitation of the Government of the Philippines, the Special Rapporteur on the human rights of migrants visited the country from 20 May to 1 June 2002. She visited Manila, Bohol, Takbilaran and Zamboanga City, meeting with senior government officials and representatives of migration authorities, the International Organization for Migration, United Nations agencies and programmes, non-governmental organizations and civil society. She also interviewed a number of migrants.

An estimated 7.4 million Filipinos, representing approximately 10 per cent of the country's total population, work in more than 150 countries on practically all the continents. Women represent the majority of newly hired overseas Filipino workers (OFWs). The Special Rapporteur received numerous reports of human rights violations and abuses suffered by OFWs. The problem of irregular migration and the vulnerability of undocumented migrants to smuggling and trafficking, as well as the social costs of migration, were addressed by the Special Rapporteur during her visit.

The Special Rapporteur was impressed by the comprehensive system established by the Government of the Philippines under the Migrant Workers and Overseas Filipinos Act (RA 8042) in order to manage labour migration and protect the human rights of OFWs and their families. The Government has also concluded a number of agreements with countries of destination to the same end and participates in regional and international forums for the promotion of a migration management system respectful of the human rights of migrants. The Special Rapporteur noted with satisfaction that civil society participates actively in this endeavour.

The Special Rapporteur found that financial and personnel constraints undermines the effectiveness of services provided under RA 8042, while legislative, administrative, policy and cultural obstacles to an effective and efficient national system of protection of the human rights of OFWs still exist. Also, the Special Rapporteur found that national protection and oversight are not sufficient to guarantee the rights of migrants if they are not accompanied by the conclusion of agreements with countries of destination, especially where there is high demand for unskilled labour and laws and practices are not in line with human rights international standards.

The Special Rapporteur noted with concern the vulnerability of Filipino migrant women to sexual exploitation, trafficking and smuggling, especially those recruited as entertainers or travelling as mail-order brides and domestic workers. The mechanisms established by RA 8042, as well as the Government's measures in this regard, proved not to be effective in protecting the rights and dignity of women migrant workers against the illegal practices linked to the very profitable sex industry. However, the Special Rapporteur underlined the need to maintain and strengthen the Government's migration management and control mechanisms. The Special Rapporteur believes in fact that leaving the labour export industry in the hands of private recruitment agencies, which act as intermediaries for foreign recruiters who derive considerable profits from their activities, would create a conflict of interest, further increasing the vulnerability of migrants, especially women migrants.

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In view of the above, the Special Rapporteur makes the following recommendations:

(a) The Government continue negotiating with receiving countries in order to conclude agreements and devise policies for the revision of immigration policies and the regularization of immigrants where there is a strong demand; the repealing of legislation that discriminates against OFWs and their inclusion in national labour and social legislation; the protection and non-criminalization of trafficked Filipino women and children; the extradition of traffickers/recruiters when cases have been filed against them in Philippine courts; and the identification of measures to combat the phenomenon of mail-order brides;

(b) The Government's protection through RA 8042 be maintained and strengthened, including through better coordination between the different government agencies abroad to assist OFWs in distress; strengthened assistance, including in the area of physical and mental health; better dissemination of travel advice; and increased number of pre-departure orientation seminars and pre-employment orientation seminars and an updating and revision of the teaching material to include subjects such as the social costs of migration, prevention of HIV/AIDS, gender issues, measures and mechanisms of redress in case of contract violations and other illegal practices; provision of pre-departure information to family members; timely disbursement under the pre-departure and family assistance loans; and provision of gender training to government personnel abroad;

(c) Existing proposals for amendments concerning the following issues also be considered: intensification of skills development programmes for OFWs; provision of sanctions for negligence on the part of embassy personnel; creating a credit assistance programme for OFWs; and creating a new medical care programme for OFWs, including preventive and rehabilitative programmes;

(d) Action to combat illegal recruitment, trafficking and smuggling be strengthened, including by strengthening the licensing system for recruiting agencies; undertaking regular inspections to PDOs; ensuring that passports are not forged by asking workers to obtain them directly from the Department of Foreign Affairs (DFA); enabling OFWs to report contract substitutions or alterations by providing adequate information and legal assistance abroad; establishing sanctions for violations of the full-disclosure policy; creating special courts to deal with cases of illegal recruitment; providing judicial organs in charge of prosecution with the necessary resources; strengthening the information and data system on migration; strengthening community-based organizations and activities to detect, report and monitor cases of trafficking and smuggling; and strengthening the certification procedure for entertainers and tightening controls for the provision of entertainer's visas;

(e) A law on trafficking and smuggling and the absentee voting bill be enacted promptly;

(f) Incentives be provided to OFWs intending to invest in the country, including tax incentives, technical training/advice and support programmes, such as viable credit;

(g) Support, in terms of knowledge, awareness raising and development of skills, be provided to the communities with large numbers of OFWs in order to strengthen family structures, prevent abuses and exploitation and facilitate reintegration;

(h) The Government pursue its efforts, in cooperation with the Government of Malaysia, to better monitor deportations from Sabah; DFA should adopt measures and policies to monitor deportation cases filed against Filipinos in Malaysia and ensure adequate assistance to deportees by consular and embassy personnel; consular and embassy officials should investigate and document incidents of abuses during the deportation proceeding and detention up to the moment of embarkation from Malaysia;

(i) Adequate assistance be provided to the local government of Zamboanga to enable it to deal with the emergency created by the deportation of OFWs from Sabah, and measures taken to ensure their reintegration in their areas of origin and to avoid the disintegration of families;

(j) Adequate resources be provided, policies adopted and programmes implemented to ensure the application of international human rights standards concerning the apprehension of irregular migrants, deportation, family reunion and conditions of detention;

(k) Foreigners detained in the Philippines pending deportation be given adequate access to courts and lawyers and their cases reviewed by competent authorities without undue delay, and steps taken to ensure that victims of trafficking to the Philippines are not criminalized;

(l) The Government consider the possibility of revising the jurisprudence relevant to the application of the Immigration Law in order to ensure that it does not give rise to cases of abuses against foreigners and that it does not discriminate against foreigners with regard to property rights;

(m) The United Nations Country Team and other international agencies strengthen their support to the Government of the Philippines in the above-mentioned endeavours.

## Annex

# REPORT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS, Ms. GABRIELA RODRÍGUEZ PIZARRO, ON HER MISSION TO THE PHILIPPINES, 20 MAY TO 1 JUNE 2002

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## Introduction

1. At the invitation of the Government of the Philippines, the Special Rapporteur on the human rights of migrants visited the country from 20 May to 1 June 2002. The Special Rapporteur would like to thank the Government of the Philippines for inviting her to visit the country and for the full cooperation extended to her prior and during the visit, which greatly facilitated her work. The Special Rapporteur would also like to thank the United Nations Resident Representative, the United Nations Development Programme Resident Coordinator and through him the staff of UNDP for the support provided throughout the visit, and national non-governmental organizations for the invaluable assistance in preparing and conducting the mission.

## I. PROGRAMME OF THE VISIT

2. The Special Rapporteur visited Manila, Bohol, Takbilaran and Zamboanga City. In Manila she met with high officials of the Department of Foreign Affairs (DFA), the Bureau of Immigration and the Department of Labour and Employment. She also visited the immigration detention centre in Camp Bagong Diwa, Nighutan, to interview foreigner detainees and the Philippines Overseas Employment Administration (POEA) to observe recruitment procedures. She further met with representatives of the Commission on Filipinos Overseas (CFO), the Department of the Interior, the Senate, the House of Representatives, the National Commission on the Role of Filipino Women, the Department of Social Welfare and Development (DSWD), the Commission on Human Rights, the International Organization for Migration and United Nations agencies and programmes. The Special Rapporteur interviewed individuals and engaged in discussions with representatives of civil society.

3. In Bohol and Takbilaran, areas of origin of many migrants, the Special Rapporteur met with the mayors and members of migrant enterprises[1] and participated in a forum with migrants and their families, government agencies and representatives of civil society.

4. In Zamboanga City, the Special Rapporteur met with the mayor, representatives of DSWD and senior representatives of other relevant local administrative bodies, including the Department of Immigration and Deportation, the Department of Interior and Local Government, the Department of Labour and Employment, the Overseas Workers Welfare Administration (OWWA) and POEA.

5. The Special Rapporteur would like to thank all the individuals and representatives of institutions with whom she met during the mission for their assistance in gathering information and providing analysis on the subject matter of the report.

## II. GENERAL CONTEXT

6. The Philippines has a market-based, mixed economy. Agriculture accounts for approximately 40 per cent of total employment. In 2001, the country witnessed a slowdown in economic growth, a weakening of its currency and 2.36 per cent population growth. The incidence of poverty worsened, approaching 40 per cent, and the unemployment rate rose to 10.1 per cent in October 2000.[2]

7. According to official data, an estimated 7.4 million Filipinos, representing approximately 10 per cent of the country's total population, work in more than 150 countries on practically all the continents. Contract workers make up 40 per cent of the total number of migrants, while 35 per cent are permanent residents of the countries in which they work and 25 per cent are undocumented migrants.

8. CFO informed the Special Rapporteur that permanent migration is directed to the United States, Canada, Australia, the United Kingdom, Spain and Japan. The number of temporary migrants has increased over the years. It is estimated that around 2,375 workers leave the country daily. Emigration to Asia slightly decreased owing to the effects of the economic setbacks experienced by Asian countries, although Japan and Singapore continue to be among the favourite destinations. In 2001, about 866,000 Filipino migrants were living in the Middle East, in particular Saudi Arabia, the United Arab Emirates, Kuwait and Qatar.

9. The Special Rapporteur was informed that Filipinos living abroad are a major source of income. They infuse capital into the country through remittances, investments and other forms of contributions. According to CFO, such remittances have contributed significantly to keeping the accounts deficit manageable and to stabilizing the economy. Filipinos overseas remitted US$ 6,230,000,000 in 2001.

10. The Migrant Workers and Overseas Filipinos Act was enacted on 7 June 1995. The same year, the Government ratified the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families in the wake of the public furore over the case of Flora Contemplación, a Filipina domestic worker accused of and sentenced to death for the murder of another Filipina domestic worker in Singapore.

11. The Special Rapporteur noticed that in spite of the existence of a sophisticated labour-export management system aimed at protecting the human rights of Filipino migrants, incidents of abuse and exploitation against overseas Filipino workers (OFWs) throughout the migration process continue to be reported.

12. According to OWWA statistics provided to the Special Rapporteur, the most common welfare cases refer to: (a) in Europe - repatriation, imprisonment, health-related problems, documents-related problems, personal problems, poor working and living conditions, delays in or non-payment of wages, failures to provide medical insurance, legal counselling, restrictive regulations on freedom of movement and association, exploitative or abusive employers, especially of workers whose permits have expired; (b) in Asia - the bribing of illegal recruiters to arrange for a migrant's stay, trafficking of workers for the sex trade, delays in or non-payment of wages, heavy workload, lack of food, denial of rest days, substitution of contracts, inadequate accommodation, physical violence, and psychological abuse; (c) in the Middle East and Africa - overwork by domestic workers, non-payment of wages, difficulties in adjusting to a new environment, reduced and delayed wages, illegal transfer to other employers, contract substitution, reduction of wages, refusal to repatriate upon expiration of contract, mistreatment, poor living conditions, denial of rest days and physical as well as sexual abuse.

13. The Special Rapporteur was concerned to learn that violations and abuses are underreported. The absence of legal documents often prevents OFWs from seeking redress out of fear of exposure and deportation.

14. Reportedly, in 2001 women represented 73 per cent of newly hired OFWs. The rise in female overseas migration is a product of many factors, including the feminization of poverty, the increase in the number of female-headed households and the demand for female migrant workers in developed economies.

15. The Special Rapporteur was informed that Filipinas leave the country as students, trainees, au pairs, professionals, workers and fiancées. Women are concentrated in jobs that make them very vulnerable to psychological abuse and physical violence, such as domestic work, caregiving, nursing and entertainment. The Special Rapporteur is very concerned about the vulnerability of women migrants to violence and abuse and to becoming victims of traffickers and smugglers. Women's work often has low value in the countries of destination and is poorly paid, excluded from labour and social legislation and the subject of racist and discriminatory policies and behaviours. Women overseas workers are often victims of physical attacks, verbal abuse, psychological and emotional abuse, deprivation of resources for their physical and mental well-being, sexual assault, contract violations, slavery-like working conditions, discrimination, exclusion from health and social services, occupational health hazards and trafficking.

16. The Special Rapporteur is concerned about the fact that sexual assault, abuse and rape are often not reported out of fear of retaliation, fear of not being taken seriously by the authorities, or of being humiliated or blamed. The situation of undocumented migrants poses even more difficulties. Such situations leave women with a feeling of powerlessness and no concrete means of redress for grave violations of their rights to physical and mental health and integrity.

17. The Special Rapporteur is also concerned about the social costs of migration in the Philippines. Reportedly, approximately half (53 per cent) of migrant women are married, widowed or separated. This implies a growing number of motherless or parentless Filipino children. In 1999 there were an estimated 5,850,000 children below 17 years of age with at least one parent working overseas. The rate of divorce and separation among migrant women is 4.4 times higher than the national average and migrant women are 15 times more likely to be separated or divorced than their male counterparts. The pressure to provide the family with money sometimes causes migrants to avoid visiting home. Husbands left behind are not often prepared to take over their wives' responsibilities. Distance and poor communications weaken relationships. The difficulty - often leading to failure - to maintain their relationships makes both the OFW and the spouse left behind emotionally vulnerable. Often, in case of family break-ups, the in-laws of OFWs argue with them over guardianship of children and control and use of the migrant's property or remittances, with the children usually suffering as a result.

18. Reportedly, children of OFWs are more likely to become involved in delinquency or early marriage. Many children become quarrelsome and have difficulties developing healthy friendships with other children. In some cases, their grades in school decline. As a result of

abandonment some children take up gambling, drinking, fighting, stealing and using drugs. Often, children are not told about the situation of their parent living abroad. Most of the parents intentionally do not keep their spouses regularly informed about the situation at home in order not to make them worry. The lack of effective and regular communications leads to the family's growing apart.

19. A few countries provide for family reunification; others, like Saudi Arabia, condition this possibility on the specific work of OFWs. However, children taken abroad as dependants often face difficulties in integrating into the new culture, language, way of life and school system.

20. The Special Rapporteur learned that the Philippines supplies at least 20 per cent of the world's sailors. In their desire to secure one of the few positions available, sailors become victims of illegal recruiters and abuses including low wages, living and working conditions below international standards, and delays in payment of wages. About 70 per cent of employed sailors are on board flag of convenience (FOC) ships and their problems are worsened by illegal termination of contracts and fear of reprisals or of being blacklisted by the shipowner or the recruiting agent if they claim their rights, and by problems of legislation when they file claims.

## III. MIGRATION MANAGEMENT

### A. Republic Act 8042

21. Republic Act (RA) 8042, the "Act to Institute the Policies of Employment and Establish a Higher Standard of Protection and Promotion of Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes", better known as the Migrant Workers and Overseas Filipinos Act, represents the main legal framework for the Philippine labour export system. In the Act, "migrant worker" or "overseas Filipino worker (OFW)" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a legal resident.

22. Under the Act two departments of the executive are principally responsible for promoting the welfare and protecting the rights of OFWs: the Department of Foreign Affairs (DFA) and the Department of Labour and Employment (DOLE). Under DOLE are POEA and OWWA. DFA shall take priority action and make representation with concerned foreign authorities to protect the rights of OFWs and give them assistance. DOLE is responsible for monitoring the fair application of labour and social welfare laws of receiving countries with regard to OFWs, including questions of legal assistance and medical referral. POEA regulates, through a licensing and registration system, the private sector participation in the recruitment and placement of workers. OWWA shall provide assistance to OFWs and their families for the enforcement of contractual obligations by agencies or employers.

23. The Act provides for the creation of the Office for the Legal Assistance for Migrant Workers Affairs (OLAMWA) under DFA. OLAMWA is responsible for the provision of all legal assistance services to OFWs and overseas Filipinos in distress. A legal assistance fund has been created under which the following costs can be covered: fees of competent private counsel;

bail bonds to secure the temporary release of workers under detention; court fees; charges and other reasonable litigation expenses; travelling, per diem, hotel and communication expenses in connection with legal assistance cases. A maximum amount is specified under each category. Disbursements from the Fund are limited to: criminal cases and other labour disputes; appeal of cases where the sentence is life imprisonment or the death penalty; payment of legal counsel only when public defence is not available and the defendant cannot afford the services of a private counsel; the reaching of amicable settlement of a case where the accused does not appear to be guilty of the offence, as determined by the head of post.

## B. The Government's protection policy

24. RA 8042 states that, "the State shall, at all times, uphold the dignity of its citizens, whether in country or overseas, in general and Filipino migrant workers in particular". The Act further states that, while recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, "the State does not promote overseas employment as a means to sustain economic growth and achieve national development"; instead, "the existence of the overseas employment programme rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State shall therefore continuously create local employment opportunities and promote equitable distribution of wealth ...". On the other hand, the Act states that "the deployment of OFWs ... shall be encouraged" and that "appropriate incentive may be extended to them". Critics argue that these provisions are contradictory. The Special Rapporteur believes that such contradiction is a reflection of a situation in which a high rate of unemployment, coupled with the existence of a culture of migration and a high demand for OFWs, strongly favour migration, sometimes in conditions that compromise the effectiveness of protection mechanisms envisaged in the Act.

25. The Act provides that "the State shall deploy OFWs in countries where the rights of Filipino migrant workers are protected". However, the Special Rapporteur was informed that in some countries of destination, especially in the Middle East, domestic workers are excluded from existing social and labour laws. Migrant workers are excluded from Kuwait's Private Sector Labour Law, Saudi Arabia's Labour Law and Singapore's Employment Act.[3] In several countries, OFWs are obliged to undergo a mandatory HIV test, while in Singapore the law prescribes that migrant women must undergo a medical examination and a pregnancy test and cannot marry Singaporean men. Yet, deployment of OFWs to these countries continues.

26. The Special Rapporteur learned with satisfaction that the Philippines has concluded bilateral agreements with a number of countries of destination. However, States with the highest incidence of abuse and violence are the most reluctant to enter into bilateral agreements. In some cases, even where bilateral agreements exist, the Special Rapporteur was informed that they are not respected or enforced.[4] Other measures were undertaken by the Government to protect OFWs. Following reports of abuses, in 1988 the Government imposed a ban on all domestic workers, which could be lifted on a case-by-case basis after negotiations with the receiving country on improved labour conditions. The ban provoked a negative reaction from Filipino women, while receiving countries ignored it in practice and it was finally lifted in 1991 in over 50 countries.

27. RA 8042 identifies the possession of skills as the best defence against abuses. However, the labour export industry is demand driven and the demand is mainly for unskilled work, often unregulated and involving hard working conditions. The Special Rapporteur was concerned to learn that OFWs are often overskilled and overqualified for the jobs they are assigned, which results in the loss of skills.

28. The Special Rapporteur also learned about the efforts of the Government to regulate the overseas artist sector in order to protect women and limit the deployment of clearly unqualified artists, with a view to protecting them from being forced into sex work. However, the high demand for "entertainers" favours illegal practices. Officials of the Technical Education and Skills Development Authority reported cases in which testing officers were paid to issue the certifications necessary to obtain entertainer visas. In the 1990s, responding to sensational cases involving Filipino women, the Government established 23 as the minimum age for entertainers. However, migration authorities informed the Special Rapporteur that age requirements are constantly violated and passports easily forged.

29. The Philippines sends abroad an average of 35,000 entertainers each year, about 95 per cent of them to Japan. The Special Rapporteur was informed that upon arrival in Japan, Filipina entertainers are often required to surrender their documents to the employer and are obliged to work as hostesses, stripteasers and sex workers. Reports of Filipina children working in the "entertainment business" in Japan were also provided by individuals and NGOs. The Special Rapporteur interviewed a 28-year-old Filipino woman who said that when she was 21 she was introduced by her cousin to a promotion agency for entertainers. The agency forged a birth certificate and flew her to Japan on 20 June 1995. There she was taken to a club by the representative of the promotion agency. The club owner took her passport, told her to put on a sexy outfit and assigned her to another entertainer who showed her how to serve drinks and entertain customers. She was made to go on private dates with customers and reported that she was often sexually harassed and forced to work long hours.

30. Reportedly in Victoria, Australia, the sex industry has a turnover of over US$ 360 million every year. In Japan the sex industry accounts for 1 per cent of the country's gross national product and is equal to the defence budget. In Thailand, the income generated by the sex trade is even more striking. DOLE recently revised guidelines for the training, testing, certification and deployment of overseas performing artists (OPAs), transferring the responsibility for determining who may or may not work abroad as OPAs to the same people who recruit the applicants, with considerable profit to themselves. The Special Rapporteur believes that even though strong economic interests undermine the effectiveness of the Government's protection efforts, it is essential that such efforts continue and be strengthened.

31. The Act provides OFWs the right to participate in the democratic decision-making process and to be represented in institutions involved in overseas employment. The 1987 Constitution requires Congress to establish a system allowing that Filipinos overseas can exercise their right to vote. However, for over 14 years, the Congress has failed to approve relevant legislation.

### C. Illegal recruitment

32. By "illegal recruitment" RA 8042 not only means illegal recruitment of non-licensed entities, but also the malpractice of licensed agencies. Illegal recruitment is an offence that carries severe penalties.

33. The Special Rapporteur was informed that irregular migration is a large-scale phenomenon. Workers overstay their visas, change contract without authorization, illegally enter countries or enter countries as tourists and engage in employment without authorization. A recurring phenomenon is "runaways": OFWs leaving their employment to escape a difficult situation or to seek different employment before the mandatory return to their country. The Special Rapporteur was informed that this is particularly frequent in countries where unskilled migrants are admitted with contracts of very short duration.

34. The Philippine Centre for Trans-National Crime (PCTC) informed the Special Rapporteur that the main countries of destination of undocumented Filipinos are the United States, Singapore, Canada, Japan, Italy, the United Kingdom, Saudi Arabia, Greece, Germany and France. Irregular OFWs in Japan, Korea, Taiwan, Hong Kong, Singapore and the Middle East are mainly engaged in manual work, such as construction, textiles and manufacturing. Women are mainly engaged as domestic workers or entertainers. Most irregular workers experience difficult living and working conditions and are particularly vulnerable to abuse. The Special Rapporteur was informed that in Middle Eastern countries contracts are often changed to the detriment of OFWs.

35. The Special Rapporteur was concerned to learn that many recruitment agencies engage in recruitment activities without a proper licence. Even licensed agencies commit violations such as contract substitution, exaction of fees above the established amount and advertisement of non-existent jobs.

36. The full disclosure policy, whereby all parties to a contract declare the real terms and conditions of all aspects of the workers' employment, is often not implemented. Some women interviewed by the Special Rapporteur reported that they did not even know the names of their employers when they left to work as domestic workers abroad. Disclosing the real terms of contract might in fact discourage potential OFWs. No sanctions are imposed on recruitment and placement agencies violating the policy.

37. Migrants who are victims of illegal recruitment should file their case with the Legal Assistance Division (LAD) of the Anti-Illegal Recruitment Branch of POEA. LAD forwards the case to the Operation and Surveillance Division (ODS) which checks if the agency is licensed. If it isn't, ODS ensures that it stops operating. The case is then referred to the Prosecution Division which will assist the complainant to file the case with the Office of the Fiscal. POEA lawyers help the victim during the preliminary investigation. A criminal action arising from illegal recruitment must be filed with the Regional Trial Court of the province or city of residence of the offended party, or where the act was committed. The Labour Arbiters of the National Labour

Relations Commission hears cases regarding OFWs' deployment, including claims for actual, moral, exemplary and other forms of damages. The Special Rapporteur was informed that according to a recently enacted law, victims of illegal recruitment can give a sworn statement and POEA will coordinate efforts to verify the information.

38. The Special Rapporteur learned that the number of successful prosecutions for illegal recruitment remains very low. The unit in charge of prosecuting such cases is reportedly understaffed and overworked. Often victims are not aware of the procedures for filing complaints or have no means to do so. Furthermore, as reported by individuals interviewed by the Special Rapporteur, legal advice and support are often not provided by embassy and consular personnel abroad. The Special Rapporteur was informed that even when claims are filed, most of the cases are solved through amicable settlements.

39. The Special Rapporteur learned with appreciation that the Philippines Human Rights Plan of Action recognizes that undocumented workers are the most vulnerable to human rights violations and calls for effective implementation of RA 8042, including through the creation of anti-illegal recruitment desks in every city, the creation of more job opportunities in the country, the implementation of a Witness Protection Programme, the speedy resolution of illegal recruitment cases, the creation of a pool of prosecutors to deal with such cases and a tightening of departure checks of tourist workers at all international airports. It also calls for the Supreme Court to immediately designate special courts to hear and decide illegal recruitment cases.

40. Almost all Philippine embassies and consulates abroad have recorded instances of trafficking for forced prostitution, illegal labour and the bride trade. Women who travel with false papers and illegal documents provided to them by illegal recruiters are particularly vulnerable to trafficking. PCTC recorded 881 cases in the period 1992-March 2001. According to CFO, 65 per cent of the victims were women and 25 per cent of them were forced into prostitution; 51 per cent of the victims were trafficked with their consent/knowledge while 47 per cent were deceived. The Government repatriated 38 per cent.[5] The Special Rapporteur was informed that illegal recruiters, organized crime groups, including those involved in narcotics and arms smuggling, local pimps and procurers, entertainment promoters and impresarios were the traffickers.

41. The Special Rapporteur received the testimony of a 15-year-old girl from Zamboanga del Norte. She reported that on 10 April 2002 she was visited by two friends, 17 and 18 years old, who convinced her to go with them to Malaysia to work as a waitress. The following day they were taken by "the broker" to a house in the centre of Zamboanga City together with other girls. On 13 April they boarded a boat and travelled to Lahad Datu, Malaysia. They were brought to a hotel where they met a Chinese man who "inspected" the girls one by one, by making them strip naked. On 14 April, the interviewee was taken to a house in Kota Kinabalu where she met Tina, a Filipino woman in charge of looking after the girls. Tina gave her a sexy dress and asked a driver to take her to a hotel where she was left with a Chinese "client", who raped her. She tried to resist, but was later told by Tina that she should just obey the orders and never try to resist again. She was also told that she had to pay off a considerable debt for her passport, recruitment and travel. She was forced to meet other clients until she was rescued by embassy personnel on 29 April.

42. The Philippines has ratified the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention. However, there is no national legislation on the crime of trafficking. At the time of the visit, there was a bill before the joint Senate Committees on Youth and on Women and Family on an Anti-Trafficking Act that had already been approved by the House of Representatives.[6]

43. The Special Rapporteur noted with concern that women migrants are particularly vulnerable to trafficking and smuggling. The lack of information on national legislation on migration and on the conditions of work in countries abroad, the lack of awareness of the risks of irregular migration, the difficult economic conditions, the existence of a net of unscrupulous illegal recruiters, the high demand for sex workers and widespread impunity are all factors that increase the vulnerability of Filipino migrant women to victimization by trafficking and smuggling criminal networks.

44. The Special Rapporteur learned about a number of interesting programmes and initiatives implemented both by government agencies and NGOs aimed at tackling the above-mentioned issues. These include information campaigns on the risk of illegal recruitment and raising awareness of legal migration channels and procedures and legal redress for violations and abuses suffered. The Special Rapporteur repeatedly stressed that consular protection abroad should include physical and mental health assistance, especially for women victims of trafficking and smuggling, and noted with appreciation that initiatives had been undertaken in this regard.

45. The Special Rapporteur learned with appreciation that bilateral and multilateral agreements are being sought so that victims of human trafficking and smuggling are not treated as offenders. A high-level governmental Working Group on Human Trafficking was established to develop a national strategy against trafficking and smuggling of persons. Other interesting programmes and projects brought to the attention of the Special Rapporteur were the Philippines-Belgium project on trafficking which aims to educate and train the public in preventive actions and provide social and legal assistance to victims. The Special Rapporteur visited PCTC and was informed that the Centre has the task of formulating and implementing a concerted programme of action of all law enforcement, intelligence and other government agencies for the prevention and control of, inter alia, trafficking in women and children, particularly through improved coordination, research and the collection and centralization of data.

## D. Services

46. RA 8042 also provides for the following services: travel advice/information by all embassies and consular offices; repatriation of workers by the recruiting agency/emergency reparation fund; mandatory repatriation of under-age OFWs; establishment of "Replacement and Monitoring Centres"; establishment of "OFWs and other Filipinos Resource Centres" under the jurisdiction of the embassies; establishment of a "Shared Government Information System for Migration"; and a "Migrant Workers Loan Guarantee Fund". Travel advice is provided

by POEA, while repatriation of OFWs is handled by OWWA. The Resource Centre is where Filipinos meet for cultural activities and where they can obtain information and receive training. There are about 30 centres worldwide. They operate under DOLE and should be open 24 hours a day. The Loan Guarantee Fund provides pre-departure and family assistance loans.

47. The Special Rapporteur was informed that the number of resource centres is very small compared with the need and that often they are not open 24 hours a day owing to personnel and resource constraints. The quality of the services provided depends to a great extent on the initiative of the director.

48. The Act provides that "all officers, representatives and personnel of the Philippine Government posted abroad, regardless of their mother agencies, shall, on a per country basis, act as one country team with a mission under the leadership of the Ambassador". However, the Special Rapporteur was informed that reportedly, coordination between government officials abroad remains weak and inefficient. The urgent need for gender training and sensitization was indicated. The Special Rapporteur was informed by victims that when they phoned the embassy to be rescued from abusive employers, they were simply advised to escape from the house and proceed to the embassy. Also, the Special Rapporteur was told that government personnel often discourage OFWs from filing complaints or legal suits.

49. The Special Rapporteur was informed that OWWA is very slow to act on repatriation requests and that the emergency repatriation fund is still without resources; the government information system is reportedly still not operational. OWWA reportedly has passed its loan and lending programme on to the Land Bank. Pre-departure loans have stopped and family assistance loans are tied to Land Bank requirements.

50. All embassies abroad issue travel advisories and information on labour and employment conditions. This information is published regularly by POEA. However, the Special Rapporteur was informed that the publication does not reach all potential migrant workers, as it is often only in English and not broadcast by regional media.

51. The Act requires the implementation of pre-employment orientation seminars (PEOs). This is done in cooperation with NGOs, civil and religious groups and academic institutions. Reportedly, not even 10 per cent of OFWs attend PEOs, as they are held very infrequently owing to shortages in funding and personnel.

52. Pre-departure orientation seminars (PDOs) are provided by the recruiting agency. However, in practice it is often OFWs who pay the related expenses, including a fee and accommodation and transportation costs. The total number of PDOs held is inadequate. Reportedly, PDOs concentrate on specific countries, to the detriment of OFWs with different destinations. The Special Rapporteur was informed that the content of the seminars is inadequate and outdated and the way topics are handled mainly depends on the body giving the PDO. This is particularly the case with regard to issues such as HIV/AIDS.

53. The Special Rapporteur learned with satisfaction that DSWD, DOLE and other agencies collaborated in the implementation of an "Overseas Comprehensive Social Service Package" providing medical, legal and counselling services in identified countries with large

concentrations of OFWs. This involves the deployment of social workers and medical practitioners who provide services on the spot. DSWD, with the assistance of DFA, also initiated efforts to establish arrangements with counterparts and NGOs in other countries to provide assistance to Filipinos in distress, particularly women and children, requiring temporary shelter, counselling, repatriation and immediate medical treatment.

### E. Deregulation and phase-out

54. The Act provides for a five-year period during which the regulatory functions of POEA will be phased out and "the migration of workers becomes strictly a matter between the worker and his foreign employer".

55. The premise of deregulation was that the Philippines would become a newly industrialized country by 2000. This did not transpire. The Special Rapporteur is concerned about the application of this provision as she believes that the consistent increase in the number of OFWs, the feminization of this sector, the problem of illegal recruitment, welfare cases and recruitment violations, as well as the resistance of some host countries to enter into bilateral agreements for the protection of the rights of migrants, are signs that deregulation can only be undertaken cautiously and progressively.

## IV. REPATRIATION

56. The Office of the Undersecretary for Migrant Workers Affairs of DFA defines "repatriation" as the unplanned return of an OFW, dead or alive, from a job site overseas, the reasons for which range from labour conflicts, psychosocial problems and wars to restrictive immigration policies. Although there is a difference between deportation and repatriation, reportedly the Government of the Philippines tends to consider any unplanned return of Filipino workers as "repatriation". In 2001, the Office handled 369 cases of repatriates who were returned home for a variety of reasons. However, this does not reflect the total number of individuals affected. Philippine embassies and consulates abroad in fact report only cases of OFWs applying for travel documents. The Special Rapporteur was informed that most repatriation cases involve no severance pay, leaving OFWs and their families with debts.

57. POEA and OWWA informed the Special Rapporteur that often there are considerable delays in repatriating OFWs. This is particularly the case in some countries of the Middle East, such as Kuwait and Saudi Arabia, where the law requires an exit visa. The Special Rapporteur was informed that if the OFW wishes to terminate the contract before its expiration, the employer has the right to be reimbursed by the recruiting agency or the worker. Until this is settled, the exit visa cannot be issued.

58. The Special Rapporteur received first-hand accounts of Filipino women who had been repatriated/deported from Sabah, Malaysia. Some reported mistreatment while in detention awaiting deportation. One stated that she was raped and then taken to the airport handcuffed. It was argued that the personnel of embassies and consulates abroad were not always in a position to provide assistance to OFWs in distress. Women NGOs in particular stressed the need for

qualified personnel to provide psychological and medical assistance to women victims of violence. POEA informed the Special Rapporteur that the Government had pledged US$ 500,000 for women doctors, lawyers and social workers to be sent abroad to assist OFWs in distress.

59. In 1997, the Government of Malaysia started to implement its Immigration Act strictly. This adversely affected thousands of undocumented Filipino workers who had established residence in Sabah.

60. During her visit to Zamboanga, the Special Rapporteur was informed that 6,962 Filipinos had been deported from Malaysia between February and April 2002 and that the Government of Malaysia was expected to deport 30,000 undocumented Filipinos by June 2002. DSWD, in cooperation with the city government and local NGOs, had extended assistance to the deportees in terms of food, shelter, medical assistance, counselling and referral to the appropriate government units. Transportation was provided for by the central Government. Many of the deportees came from the autonomous region of Mindanao and had no labour and employment documents. Minors reportedly were kept in Zamboanga until their families were found. The Police Southern Command and the city government have formed a repatriation task force that includes an emergency medical team. The Special Rapporteur was impressed by the valuable work carried out by local NGOs.

61. Deportees interviewed by the Special Rapporteur reported that they were detained from one to five months, received little food and water, had no access to doctors and medicines and were allowed out of their cells only for a few minutes a day. There were also reports of mistreatment by Malaysian authorities. Casualties were reported during the deportation: on 12 April two children, 2 and 10 years old, died from cardio-pulmonary arrest; on 24 April a woman gave birth prematurely and her child died.

## V. REINTEGRATION

62. The Special Rapporteur learned that upon their return, OFWs often have no savings and few chances to find employment. Many are forced to return to the Philippines prematurely, owing to contractual violations or abuse, deportation as a result of war or changes in immigration laws, illegal termination of contracts or illness, and many still have debts in connection with their deployment. POEA reported that 70-80 per cent of OFWs are unable to save enough money for their eventual return. The Re-placement and Monitoring Center run by the Department of Labour and Employment should provide a mechanism for the reintegration of returning OFWs. However, only a very small percentage of returnees find employment through the Center, which serves more as a referring body.[7]

63. Migrants interviewed by the Special Rapporteur and NGOs stressed that reintegration in the family is not easy: not infrequently spouses/partners have begun new relationships and children have suffered psychological problems because of absence of the parent. Dependency on migrant workers' incomes has grown and families often do not engage in alternative income-generating activities. If the returnee finds a job, the wages are usually not enough to

provide for the needs of his/her family. The few OFWs who manage to save money and attempt to set up a business upon return often fail because of lack of planning, training and information on business conditions in the Philippines. All these circumstances frequently leave returning OFWs with no choice other than to migrate again.

64. The first national conference on OFW reintegration was held in Manila on 12 and 13 April 2002. It concluded that a comprehensive OFW reintegration programme should involve OFWs, their families, the Government and civil society at large. Migrants and their families should be assisted to form organizations such as support groups and cooperatives. The migrants' communities could help in establishing business ventures and social enterprises that would generate long-term employment. The Government should help OFWs to invest their savings through, for example, incentives for business development and business and management training.

65. The Special Rapporteur fully endorses these conclusions. The process of reintegration should start even before OFWs leave. The Special Rapporteur believes that the social and psychological impact of migration on OFWs and their families must be cushioned. To this end, it is important to ensure better communication between OFWs and their families. The Special Rapporteur learned about interesting programmes targeting OFWs initiated by NGOs, such as videoconferences and other communications services, and about the development of teaching modules on the situation of OFWs and the positive and negative effects of migration to be used in schools.

66. The Special Rapporteur was struck by reports on the situation of children born of marriages between OFWs and foreigners. Reportedly, women performing as entertainers in Japan often bear the children of their customers. Marriage does not always follow, and when it does in many cases it does not last long. Increasing numbers of Japanese-Filipino children in the Philippines and Japan are often neglected and not recognized by their Japanese fathers. Women returning from Japan with their children often are not well informed about the legal procedure for the recognition of children under the law of the Philippines and the necessity of registering their children as Filipino citizens. Because of their fathers' abandonment and their mothers' financial situation, these children often do not have access to education, adequate food, clothing and shelter. The stigma attached to their mothers becomes theirs as well, causing an identity crisis, a poor sense of dignity and low self-esteem. These children are often also discriminated against because of their Japanese features. Children of Filipino mothers and other foreign fathers reportedly also experience problems such as discrimination, alienation and identity crises. The Special Rapporteur learned about valuable NGOs programmes of psychological and legal assistance for these children and their mothers.

67. The Special Rapporteur visited the municipality of Jagna, Bohol, where almost 10 per cent of the population are OFWs. According to DOLE, the scarcity of land and the lack of employment opportunities have been major factors in migration. POEA reported that from 1990 to July 2001, almost 14,000 people left the province. This figure does not include irregular migrants.

68. The Special Rapporteur learned about many programmes initiated in Bohol to assist and protect migrants and facilitate their reintegration. Municipal councils assisted in locating OFWs abroad; implemented anti-illegal recruitment campaigns; reached agreements with POEA and OWWA to cooperate in the prosecution of cases of illegal recruitment; initiated employment counselling services and skills development training. Also, non-governmental organization, in cooperation with municipal authorities and the central Government, started programmes aimed at involving the families of OFWs in income-generating programmes and cooperatives for the productive investment of remittances. The Special Rapporteur would like to express her full support for and encouragement of the initiatives undertaken by the local government.

## VI. IMMIGRANTS TO THE PHILIPPINES

69. Act No. 613, also known as “The Philippine Immigration Law of 1940”, regulates immigration to the Philippines. The Act states that the admission of foreigners is “a matter of privilege” and should be subject to national security and interests. The Bureau of Immigration under the Department of Justice, in coordination with other agencies, is responsible for the administration and enforcement of immigration and citizenship law and the admission of foreigners to the Philippines. The law generally provides for family reunion, allowing unmarried children under 21 years of age and the spouses of immigrants to join them.

70. The Act states that as a general rule, an alien who violates Philippine immigration laws does not commit a crime and is prosecuted before a quasi-judicial body where substantial evidence is necessary to prove guilt. Aliens can be detained as a preliminary step to deportation. Among the reasons for deportation are illegal entry and prostitution.

71. The Special Rapporteur visited the Bl Bicutan Detention Center in Camp Nagong Diwa, Taguig, Metro Manila. There were about 140 foreigners detained in the Center awaiting deportation or a decision by the immigration authorities. The Special Rapporteur was told that Egypt does not document Palestinian citizens wishing to migrate, and noted that a number of undocumented Palestinians were in the Center awaiting deportation. The Special Rapporteur was informed that a Palestinian citizen had died in the Center under mysterious circumstances. This was confirmed by his brother, who was still detained in the Center. The authorities informed the Special Rapporteur that investigations were ongoing. It was also reported that budget constraints seriously affected the conditions of detention of migrants, as the Special Rapporteur could observe.

72. The majority of detainees interviewed by the Special Rapporteur were married to Filipino women and alleged that their wives had reported them to the authorities for irregular stay in order to seize their possessions.

73. A 46-year-old man from Yemen had already been detained for 11 months at the time of his interview with the Special Rapporteur. He had been in the Philippines for six years, after marrying a Filipino woman in Kuwait. They decided to go back to the Philippines to start a business. He stated that his wife had reported him to the immigration authorities, claiming that his visa was forged and his stay in the Philippines irregular. He claimed that he was arrested

without a warrant and that his visa was valid. He believed that his wife wanted to take his possessions and said that he had filed three cases with the courts, but had not been brought before a judge. The wife had sold the restaurant and the land that they had bought together. Reportedly, he could not afford a lawyer. Other interviewees, from Taiwan, Bahrain, Germany and elsewhere, gave similar accounts.

74. According to the law of the Philippines, an immigration visa can be granted to foreign spouses of Philippine citizens upon presentation of proof that they contracted a valid marriage, and under other specific conditions. The law provides that a marriage contracted by a foreigner for the purpose of evading immigration requirements may, upon the presentation of substantial proof, subject the foreign spouse to deportation proceedings. The immigrant visa issued to a foreign spouse can also be cancelled for a violation of the Immigration Act, a judicial finding that the marriage was void, legal separation of the spouses, annulment of the marriage, or divorce. The property relations of the spouses are generally governed by Philippine law. Almost all persons interviewed by the Special Rapporteur implied that the law is interpreted and implemented in a way that gives the Filipino spouse excessive power over the determination of the legality of the foreigner's stay in the country and that often that power is exercised for economic reasons.

## VII. CONCLUSIONS

75. The Government of the Philippines has put into place a comprehensive system to manage the labour export industry, in recognition of the State's responsibility to protect the human rights of OFWs and their families.

76. The Special Rapporteur was impressed by the wealth of civil society organizations working for the promotion and protection of the human rights of migrants and by the good communications between the Government and civil society on this issue. The Special Rapporteur also personally witnessed valuable programmes run by non-governmental organizations in cooperation with government agencies.

77. The comprehensive mechanisms put in place by RA 8042 to protect the human rights of OFWs are not always effective. On the one hand, government agencies entrusted with the task of implementing the Act have reported financial and personnel constraints that undermine the effectiveness and quality of their services, while legislative, administrative, policy and cultural obstacles to effective and efficient protection of the human rights of OFWs still exist. On the other hand, national protection and oversight are not sufficient to guarantee the rights of migrants if they are not accompanied by agreements with countries of destination, especially where there is a high demand for unskilled labour and the laws and practices are not in line with international human rights standards. The Government has undertaken efforts to conclude bilateral and multilateral agreements with countries of destination of OFWs, not always with success. Efforts by the Government to limit deployment to countries where OFWs are more vulnerable to abuses gave rise to protests by Filipinos/as in search of a better life, as well as to illegal practices, further increasing the vulnerability of OFWs.

78. The Special Rapporteur believes that there is still a strong need for government regulation of the labour export market. A deregulated market-driven labour export industry would expose OFWs to higher risks of abuse. At the same time, there is a need to forge international cooperation to strengthen protection of migrants' rights throughout the migration process, including in the phase of deportation. The Government participates actively in regional and international forums and conferences to promote an international migration management system that safeguards the rights and dignity of migrants. The Special Rapporteur would like to stress that migration management must be carried out with the dignity of the migrant foremost in mind. Such dignity is a human right and is not incompatible with national sovereignty.

79. The Special Rapporteur acknowledges the efforts undertaken at the national level to tackle the problem of trafficking and smuggling of persons, and welcomes the integration in the Human Rights Action Plan of provisions referring to irregular migration and the current debate on the enactment of legislation against trafficking.

80. The Special Rapporteur believes that, given the magnitude of the phenomenon in the country, there is a need to address seriously the social costs and effects of migration. In particular, efforts should be made to combat the adverse affects of migration on children, including through community support programmes, education and information campaigns and school programmes. Also, reintegration of OFWs must be facilitated. The process towards reintegration must begin even before deployment and must involve OFWs' families and communities.

## VIII. RECOMMENDATIONS

81. The Special Rapporteur recommends that:

(a) The Government continue negotiating with receiving countries in order to conclude agreements and devise policies for the revision of immigration policies and the regularization of immigrants where there is a strong demand; the repealing of legislation that discriminates against OFWs and their inclusion in national labour and social legislation; the protection and non-criminalization of trafficked Filipino women and children; the extradition of traffickers/recruiters when cases have been filed against them in Philippine courts; the identification of measures to combat the phenomenon of mail-order brides;

(b) The Government's protection through RA 8042 be maintained and strengthened, including through better coordination between different government agencies abroad to assist OFWs in distress; strengthened assistance, including in the area of physical and mental health; better dissemination of travel advice; an increased number of PDOs and PEOs and an updating and revision of the teaching material to include subjects such as the social costs of migration, prevention of HIV/AIDS, gender issues, measures and mechanisms of redress in case of contract violations and other illegal practices; provision of pre-departure information to family members; timely disbursement under the pre-departure and family assistance loans; provision of gender training to government personnel abroad;

(c) Existing proposals for amendments concerning the following issues also be considered: intensification of skills development programmes for OFWs; provision of sanctions for negligence on the part of embassy personnel; creating a credit assistance programme for OFWs; and creating a new medical care programme for OFWs, including preventive and rehabilitative programmes;

(d) Action to combat illegal recruitment, trafficking and smuggling be strengthened, including by strengthening the licensing system for recruiting agencies; undertaking regular inspections to PDOs; ensuring that passports are not forged by asking workers to obtain them directly from DFAs; enabling OFWs to report contract substitutions or alterations by providing adequate information and legal assistance abroad; establishing sanctions for violations of the full-disclosure policy; creating special courts to deal with cases of illegal recruitment; providing judicial organs in charge of prosecution with the necessary resources; strengthening the information and data system on migration; strengthening community-based organizations and activities to detect, report and monitor cases of trafficking and smuggling; and strengthening the certification procedure for entertainers and tightening controls for the provision of entertainers' visas;

(e) A law on trafficking and smuggling and the absentee voting bill be enacted promptly;

(f) Incentives be provided to OFWs intending to invest in the country, including tax incentives, technical training/advice and support programmes, such as viable credit;

(g) Support, in terms of knowledge, awareness-raising and development of skills, be provided to the communities with large numbers of OFWs in order to strengthen family structures, prevent abuses and exploitation and facilitate reintegration;

(h) The Government pursue its efforts, in cooperation with the Government of Malaysia, to better monitor deportations from Sabah; DFA should adopt measures and policies to monitor deportation cases filed against Filipinos in Malaysia and ensure adequate assistance to deportees by consular and embassy personnel; consular and embassy officials should investigate and document incidents of abuses during the deportation proceeding and detention up to the moment of embarkation from Malaysia;

(i) Adequate assistance be provided to the local government of Zamboanga to enable it to deal with the emergency created by the deportation of OFWs from Sabah, and measures taken to ensure their reintegration in their areas of origin and to avoid the disintegration of families;

(j) Adequate resources be provided, policies adopted and programmes implemented to ensure the application of international human rights standards concerning the apprehension of irregular migrants, deportation, family reunion and conditions of detention;

(k) Foreigners detained in the Philippines pending deportation be given adequate access to courts and lawyers and their cases reviewed by competent authorities without undue delay, and steps taken to ensure that victims of trafficking to the Philippines are not criminalized;

(l) The Government consider the possibility of revising the jurisprudence relevant to the application of the Immigration Law in order to ensure that it does not give rise to cases of abuses against foreigners and that it does not discriminate against foreigners with regard to property rights;

(m) The United Nations Country Team and other international agencies strengthen their support to the Government of the Philippines in the above-mentioned endeavours.

**Notes**

[1] The local government of Bohol, in cooperation with NGOs, has initiated programmes aimed at assisting migrants and their families in investing remittances in the establishment of enterprises with a view to creating job opportunities for returning migrants and promoting long-term development of their communities.

[2] United States Department of State, *Country Reports on Human Rights Practices for 2001: Philippines*.

[3] David Forman, "Protecting Philippine Overseas Contract Workers", *Comparative Labour Law Journal*, vol. 16, 1994.

[4] See also N. Diaz, *Violence against Women Migrant Workers and their Protection under International Human Rights Law*, University College London, 2001.

[5] Data provided by the National Commission on the Role of Filipino Women.

[6] The Special Rapporteur was informed that there are laws addressing trafficking in women and children, such as Act 272 on slavery; Act 341 on the slave trade; Republic Act 6955 declaring mail-order brides, i.e. the business of matching Filipino women for marriage with foreign nationals, unlawful; Republic Act No. 7610 - Special Protection of Children Against Abuse, Exploitation and Discrimination Act - criminalizing trading and dealing in children; and Republic Act 8043 - Inter-Country Adoption Act - ensuring the protection of Filipino children from abuse, exploitation, trafficking and/or sale in connection with adoption. Trafficked women can resort to the provisions of RA 8042 for some forms of protection. However, this rests on the false assumption that people will only seek employment through POEA and leave the Philippines with approved contracts. On the other hand, the enforcement of RA 6955 is difficult because the Act does not have extraterritorial application and advertisements outside the country or through the Internet cannot be stopped.

[7] Network Opposed to Violence against Women Migrants, *Rating Government Protection for Overseas Filipina Workers.*

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